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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA HAND DELIVERY**

Ms. Marlene Dortch, Secretary  
Office of Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> Street, S W  
Room TW-B204  
Washington, DC 20554

Ms. Irene Flannery  
Vice President - High Cost and Low Income Division  
2120 L Street, N W  
Suite 600  
Washington, D C. 20037

**Re: Alaska DigiTel, LLC  
CC Docket 96-45**

Dear Ms. Dortch and Ms. Flannery:

On behalf of Alaska DigiTel, LLC ("Alaska DigiTel"), we enclose herewith an Order of the Regulatory Commission of Alaska designating Alaska DigiTel as an eligible telecommunications carrier in the area served by Matanuska Telephone Association, Inc. By the attached Order, Alaska DigiTel is now eligible to receive federal high-cost universal service support pursuant to 47 C.F.R. § 54.307.

Please return a date-stamped copy in the self-addressed envelope provided

October 1, 2003

Page 2

Please contact the undersigned at 202-828-8430 if any questions arise concerning the attached Order or if you require any additional information

Sincerely,

A handwritten signature in black ink, appearing to read "David A. LaFuria". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

David A. LaFuria  
Steven M. Chernoff  
Counsel for Alaska DigiTel, LLC

Enclosure

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners.

Mark K. Johnson, Chair  
Kate Giard  
Dave Harbour  
James S. Strandberg  
G. Nanette Thompson

In the Matter of the Request by ALASKA  
DIGITEL, LLC for Designation as a Carrier  
Eligible to Receive Federal Universal Service  
Support Under the Telecommunications Act of  
1996

U-02-39

ORDER NO. 10

**ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER  
STATUS AND REQUIRING FILINGS**

BY THE COMMISSION.

Summary

We grant Alaska DigiTel, LLC (ADT)'s application for status as an eligible telecommunications carrier (ETC) for purposes of receiving federal and state universal service funding. We require ADT to file an affidavit certifying that it will advertise its services. We require ADT to file and maintain information concerning its Lifeline and Link Up services. We require ADT to annually file information with this commission describing its use of universal service funds (USF).

Background

In this docket, ADT requests designation as an eligible telecommunications carrier. The Telecommunications Act of 1996 (the Act)<sup>1</sup> requires us

<sup>1</sup>Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) amending the Communications Act of 1934, 47 U.S.C. §§ 151 *et seq*

1 to evaluate ETC requests from telecommunications carriers<sup>2</sup> by applying the standards  
2 in federal law.<sup>3</sup> ETCs must provide basic universal telecommunications service  
3 throughout a defined service area. ETCs are eligible to receive a per customer subsidy  
4 to provide, maintain, and upgrade facilities and services for basic telecommunications  
5 service.<sup>4</sup>

6 ADT has requested the designation throughout the MTA service area.  
7 ADT asserted it will provide universal services and will use the USF funds it receives to  
8 invest in new cell towers within the Matanuska Telephone Association (MTA) service  
9 area. The Rural Coalition (RC)<sup>5</sup> and the certificated utility, MTA, have actively  
10 participated in this docket. We granted intervention to the RC, MTA, ACS Rural LECs,<sup>6</sup>  
11 and GCI.<sup>7</sup>

12 During the notice period, we received comments from four of ADT's  
13 customers, who all supported ADT's request for ETC status.

14  
15  
16 <sup>2</sup>47 U.S.C. § 153(44), 47 C.F.R. § 54.201

17 <sup>3</sup>47 U.S.C. § 214(e)

18 <sup>4</sup>47 U.S.C. § 254(e).

19 <sup>5</sup>For purposes of this proceeding, the Rural Coalition's member companies  
20 include Arctic Slope Telephone Association Cooperative; Bristol Bay Telephone  
21 Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative, Inc.; Cordova  
22 Telephone Cooperative, Interior Telephone Company, Inc.; Ketchikan Public Utilities –  
Telephone Division, Mukluk Telephone Company, Inc.; Nushagak Telephone  
Cooperative, Inc.; OTZ Telephone Cooperative, Inc.; United-KUC, Inc.; and United  
Utilities, Inc.

23 <sup>6</sup>The ACS Rural Local Exchange Companies (ACS Rural LECs) are  
24 ACS of Fairbanks, Inc. d/b/a Alaska Communications Systems, ACS Local Service, and  
25 ACS, ACS of Alaska, Inc. d/b/a Alaska Communications Systems, ACS Local Service,  
and ACS; and ACS of the Northland, Inc. d/b/a Alaska Communications Systems, ACS  
Local Service, and ACS

26 <sup>7</sup>GCI Communication Corp. d/b/a General Communication, Inc. d/b/a GCI (GCI)

1 In Order U-02-39(5), dated February 10, 2003, we decided we would  
2 determine capability and commitment on the basis of filings received to date from the  
3 parties, and responses to additional questions posed in Order U-02-39(5). We also  
4 determined we would have a hearing to address whether the ADT ETC designation is in  
5 the public interest.<sup>8</sup>

6 Discussion

7 State commissions must decide whether or not applications for ETC status  
8 should be granted.<sup>9</sup> Federal law requires us to apply the following criteria to our  
9 evaluation of ADT's request for ETC status.<sup>10</sup>

10  
11  
12  
13  
14 <sup>8</sup>We reserved the right to end the investigation before the public interest hearing  
if we found ADT incapable or not committed.

15 <sup>9</sup>See n 1

16 <sup>10</sup>These criteria are derived from Section 214(e)(1) and (2) of the Act which  
provides.

17 (1) A common carrier designated as an eligible telecommunications carrier under  
18 paragraph (2), (3), or (6) shall be eligible to receive universal service support in  
19 accordance with section 254 of this title and shall, throughout the service area for which  
the designation is received –

20 (A) offer the services that are supported by Federal universal service  
21 support mechanisms under section 254(c) of this title, either using its own  
22 facilities or a combination of its own facilities and resale of another carrier's  
services (including the services offered by another eligible telecommunications  
carrier), and

23 (B) advertise the availability of such services and the charges therefor  
24 using media of general distribution.

25 (2). Before designating an additional eligible telecommunications carrier for an  
26 area served by a rural telephone company, the State commission shall find that the  
designation is in the public interest.

- Has ADT demonstrated that it owns at least some facilities?
- Has ADT demonstrated it will appropriately advertise its services?
- Has ADT demonstrated a capability and commitment to provide the Nine Basic Services required by Federal Communications Commission (FCC) regulation?<sup>11</sup>
- Is granting ADT's application in the public interest?

State commissions may impose conditions on the granting of ETC applications to assure that the public interest is met.<sup>12</sup>

#### Ownership of Facilities

We found in Order U-02-39(5) that ADT meets the facility ownership criteria for ETC status. In that Order, we also concluded that it is reasonable for ADT to use the MTA study area as its universal service area.

#### Advertising Services

Section 214(e)(1)(B) of the Act requires an ETC to advertise the availability of the Nine Basic Services (including Link Up and Lifeline)<sup>13</sup> and the charges for the services using "media of general distribution."

When we granted MTA ETC status, we required MTA to meet the following minimum criteria to ensure appropriate and sufficient customer notification of its services<sup>14</sup>

a) once every two years MTA must perform community outreach through appropriate community agencies by notifying those agencies of MTA's available services;

b) once every two years MTA must post a list of its services on a school or community center bulletin board in each of the utility's exchanges,

<sup>11</sup>The Nine Basic Services are defined at 47 C.F.R. § 54.101

<sup>12</sup>*Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

<sup>13</sup>Link Up is described at 47 C.F.R. § 54.411, and Lifeline at 47 C.F.R. § 54.405

<sup>14</sup>In the following paragraphs addressing minimum advertising requirements, "services" referred to those services for which MTA receives universal service support. MTA was not required to advertise nonsupported services

1 c) once a year MTA must provide a bill stuffer indicating its available  
2 services, and

3 d) once a year MTA must advertise its services through a general  
4 distribution newspaper at the locations it serves<sup>15</sup>

5 We believe these standards are also appropriate for ADT. ADT has  
6 agreed to comply with our interpretation of what advertising was required by Section  
7 214

8 Capability and Commitment

9 We established in Order U-02-39(5) that we would concentrate on ADT's  
10 provision of the nine basic services required by the FCC.<sup>16</sup> Our ruling was based on the  
11 FCC's guidelines<sup>17</sup> The parties cited many cases, none of which persuaded us to  
12 modify our decision  
13  
14  
15  
16  
17  
18

19 <sup>15</sup>Order U-97-187(1), dated December 19, 1997, at 16

20 <sup>16</sup>Order U-02-39(5) at 6.

21 <sup>17</sup>We held in Order U-02-39(5) that we would follow the FCC guideline that ADT  
22 "must make a reasonable demonstration of its capability and commitment to provide the  
23 services required of an ETC throughout the service area for which it seeks ETC status.  
24 ADT does not need to provide detailed specifications of all aspects of its technical and  
25 financial abilities. ADT must, however, provide enough information to credibly  
26 demonstrate its ability." Order U-02-39(5) at 4. *In Re Federal-State Joint Bd. on  
Universal Service, Western Wireless Petition For Preemption of an Order of the South  
Dakota Public Utilities Commission*, CC Docket No. 96-45, Declaratory Ruling, 15 FCC  
Rcd 15168, para 24 (2000) (*South Dakota Order*).

1 ADT need not provide detailed specifications of all aspects of its technical  
2 and financial abilities. However, ADT must provide enough information to demonstrate  
3 its ability to provide each of following Nine Basic Services designated by the FCC<sup>18</sup> or  
4 obtain a waiver<sup>19</sup>

- 5 1) Voice grade access to the public switched network (including Lifeline  
6 and Link Up services),
- 7 2) Local usage,
- 8 3) Dual tone multi-frequency signaling or its functional equivalent,
- 9 4) Single-party service or its functional equivalent,
- 10 5) Access to emergency services,
- 11 6) Access to operator services,
- 12 7) Access to interexchange services,
- 13 8) Access to directory services, and
- 14 9) Toll limitation for qualifying low-income consumers.

15 ADT is a wireless personal communications service licensee that currently  
16 provides service in the MTA service area, Juneau, Fairbanks, and Kenai through more  
17 than 50 cell sites.<sup>20</sup> ADT operates 15 cell sites within the proposed ETC service area.  
18 ADT has a staff of 60, which includes experienced engineers and technical support  
19 personnel. ADT began providing service in Alaska in November 1998.

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21 <sup>18</sup>See n. 11

22 <sup>19</sup>The FCC allows a state commission to grant waiver of the requirement to  
23 provide single-party, access to enhanced 911, and toll limitation services to allow  
24 additional time for a carrier to complete network upgrades necessary to provide service.  
47 C.F.R. § 54.101(c).

25 <sup>20</sup>*Alaska DigiTel, LLC's Response to Order Requiring Filing and Addressing*  
26 *Eligible Telecommunications Carrier Criteria (ADT's Response)*, filed March 10, 2003,  
at 2



1 ADT's years of experience deploying wireless service reasonably  
2 demonstrates its technical knowledge and basic abilities to provide wireless  
3 telecommunications service. The parties do not dispute ADT's technical competence.  
4 Instead, their arguments have centered on whether ADT has the financial ability and  
5 intent to build out its facilities throughout the MTA service area.

6 The RC asserts ADT has not shown a study area-wide capability and  
7 commitment and thus is prepared only to serve a small portion of the MTA study area  
8 for the foreseeable future<sup>21</sup> The RC also asserts that ADT proposes a meager network  
9 build-out in the next two years The RC provides financial information showing that  
10 even with universal service funding, ADT lacks resources to complete its proposed  
11 expansion<sup>22</sup> The RC argued that ADT did not provide enough credible evidence to  
12 demonstrate its capability and commitment. The RC also stated that ADT provided no  
13 verifiable data for service quality.

14 MTA asserts that ADT has not shown that it would ever be able to serve  
15 the entire MTA study area, and that this ability is a prerequisite to receipt of ETC status,  
16 unless the FCC and RCA mutually agree to a different definition of the company's  
17 service area.<sup>23</sup>

18 ADT admits that its current facilities do not cover the entire MTA service  
19 area, and that it could not build out to many areas where demand for service existed  
20  
21

22 <sup>21</sup>*Rural Coalition's Reply to Alaska DigiTel, LLC's Capability and Commitment*  
23 *Filing (RC's Reply)*, filed March 24, 2003, at 1-2.

24 <sup>22</sup>*Id.* at 2.

25 <sup>23</sup>*Matanuska Telephone Association's Reply to Alaska DigiTel, LLC's Response*  
26 *to Order Requiring Filings and Addressing Eligible Telecommunications Carrier Criteria*  
*(MTA's Reply)*, filed March 24, 2003, at 8-9.

1 without access to federal USF ADT commits to begin construction of six new cell sites  
2 in the first 24 months after it obtains USF During the first year after obtaining funding,  
3 ADT plans to construct facilities in Big Lake, Willow, and Talkeetna, Alaska In its  
4 second year of funding, ADT plans to begin construction of facilities in Trapper Creek,  
5 Petersville, and Cantwell, Alaska. ADT estimates a construction cost of \$250,000 per  
6 cell site ADT states that the total construction costs would likely exceed ADT's  
7 projected support for the first two years

8 ADT may not be able to serve the entire MTA service area with its own  
9 facilities for several years. However, this does not preclude ETC status ADT is not  
10 required to provide service using only its own facilities. Federal law specifies that an  
11 ETC may provide service through a combination of its own facilities and resale<sup>24</sup>  
12 Therefore, ADT need not prove its ability to build facilities through every portion of  
13 MTA's service area ADT must demonstrate that its method of providing service  
14 throughout the MTA area is reasonable

15 ADT proposes to provide service throughout the MTA service area using  
16 its own facilities or, if necessary, a combination of its own facilities and resale of another  
17 carrier's services. ADT describes a 7-step plan for serving customers.<sup>25</sup>

18 a) if ADT can serve within its existing network, ADT will immediately serve  
19 the customer,

20 b) if the customer is not in an area where ADT currently provides service,  
21 ADT will

22 Step 1 determine whether the customer's equipment can be modified or  
23 replaced to provide acceptable service;  
24

25 <sup>24</sup>47 U.S.C. § 214(e)(1)(A).

26 <sup>25</sup>ADT's Response at 9-10.

1 Step 2 determine whether a roof-mounted antenna or other network  
2 equipment can be deployed at the premises to provide service,

3 Step 3 determine whether adjustments at the nearest cell site can be  
4 made to provide service,

5 Step 4 determine whether a cell-extender or repeater can be employed  
6 to provide service;

7 Step 5 determine whether there are any other adjustments to network or  
8 customer facilities that can be made to provide service;

9 Step 6 explore the possibility of offering the resold services of carriers  
10 with facilities available to that location,

11 Step 7. determine whether an additional cell site can be constructed to  
12 provide service, and evaluate the costs and benefits of using scarce high-cost support  
13 to serve the number of customers requesting service.

14 ADT states that if there is no possibility of providing service short of  
15 constructing a new cell site, it will report to the commission, providing the proposed cost  
16 of construction and the company's position on whether the request for service is  
17 reasonable and whether high-cost funds should be expended on the request <sup>26</sup>

18 We find ADT's plan is a reasonable means for ADT to provide service  
19 throughout the MTA service area upon reasonable customer request. We will address  
20 any ADT requests to deny service on a case-by-case basis.

21  
22  
23  
24  
25 <sup>26</sup>Direct Testimony of Stephen M. Roberts on Behalf of Alaska DigiTel, LLC  
26 (Roberts Direct Testimony), filed March 17, 2003, at 14

1 We do not find MTA's and the RC's arguments that ADT lacks the  
2 financial capability to live up to its universal service commitments persuasive. ADT's  
3 proposal demonstrates a reasonable commitment to serve and is adequate for our  
4 purposes in this docket

5 The RC and MTA challenge the financial viability of ADT's plans to  
6 expand during the first two years.<sup>27</sup> We find that ADT's 7-step plan for providing service  
7 documents a reasonable strategy for providing service throughout the study area. We  
8 note that if ADT fails to serve throughout its designated service area, we would have  
9 cause to revoke its ETC status

10 ADT is not required to provide service where there are no prospective  
11 customers. The FCC has determined an ETC must only provide service upon  
12 "reasonable request" and should be treated similarly to the incumbent on this point:

13 Gaps in Coverage. We find the requirement that a carrier provide  
14 service to every potential customer throughout the service area before  
15 receiving ETC designation has the effect of prohibiting the provision of  
16 service in high-cost areas. As an ETC, the incumbent LEC is required to  
17 make service available to all consumers upon request, but the incumbent  
18 LEC may not have facilities to every possible consumer. We believe the  
19 ETC requirements should be no different for carriers that are not incumbent  
20 LECs. ***A new entrant, once designated as an ETC, is required, as the  
incumbent is required, to extend its network to serve new customers  
upon reasonable request. We find, therefore, that new entrants must be  
allowed the same reasonable opportunity to provide service to  
requesting customers as the incumbent LEC, once designated as an  
ETC.*** (Emphasis added.) Thus, we find that a telecommunications carrier's  
21 inability to demonstrate that it can provide ubiquitous service at the time of its  
22 request for designation as an ETC should not preclude its designation as an  
23 ETC. (Footnotes omitted)<sup>28</sup>

24 We agree with the FCC's conclusion. We find reasonable ADT's 7-step plan and its  
25 stated commitment to serve all reasonable requests.

26 <sup>27</sup>RC's Reply at 10, MTA's Reply at 2.

<sup>28</sup>South Dakota Order at para 17.

1           *Emergency Services*

2           The parties alleged that ADT failed to direct emergency calls to the correct  
3 emergency response center in Palmer and instead directed the calls to Anchorage.  
4 ADT agreed that the calls should not have been directed to Anchorage, and worked to  
5 resolve the matter. As of April 15, 2003, ADT was processing 911-calls to the Palmer  
6 Public Service Access Point (PSAP).<sup>29</sup> Therefore, by the date of hearing, the  
7 allegations about misdirected emergency calls were resolved.

8           The RC and MTA challenged ADT's ability to provide adequate  
9 emergency services, claiming that ADT only asserted an ability to provide undefined  
10 "M-911" service.<sup>30</sup> ADT asserted that it complies with all federal phase-in requirements  
11 for emergency services that apply to wireless carriers; and no party provided  
12 contradictory evidence. We conclude that ADT has adequately demonstrated its ability  
13 to meet the emergency services requirement associated with ETC status

14           *Lifeline and Link Up Services*

15           ADT committed to provide Lifeline and Link Up services. However, when  
16 developing its proposed level of Lifeline and Link Up discounts and its proposed  
17 customer eligibility criteria, ADT may not have taken into account that all of Alaska is  
18 deemed tribal land and eligible for enhanced Lifeline and enhanced Link Up services  
19 under the FCC rules. We require ADT to revise its proposed level of Lifeline and Link  
20 Up services to recognize the higher level of support offered to tribal land areas, or  
21 explain why this should not occur. Within 30 days of the date of this Order, ADT is  
22 required to file the following information with us:

23           

---

<sup>29</sup>*Prefiled Reply Testimony of Clay Dover on Behalf of Alaska DigiTel, LLC*  
24 (*Dover Reply Testimony*), filed May 5, 2003, at 7.

25           <sup>30</sup>*RC's Reply at 13-14, MTA's Reply at 21-22. See Roberts Direct Testimony at 4.*

1 a) the base local rate(s) and description of service for the service offerings  
2 upon which the Lifeline and Link Up discounts will be applied,

3 b) the Lifeline and Link Up discounts that it will apply;

4 c) the means test that it will use to determine whether a customer is  
5 qualified for Lifeline or Link Up services, and  
6

7 d) how ADT will ensure that Lifeline customers will not be disconnected for  
8 failure to pay their "local" bill

9 ADT shall update the filed information within 30 days of any change. This  
10 additional filing will clarify ADT's commitment to provide Lifeline and Link Up services.

11 Public Interest Determination

12 We focus our public interest determination on the potential benefits the  
13 consumer could receive from the ETC designation of ADT Elements we consider in  
14 determining public interest include:

- 15 • New choice for customers
- 16 • Affordability
- 17 • Quality of service
- 18 • Service to unserved customers
- 19 • Comparison of benefits to public cost

20 We also consider the record to determine if there is material harm to any ratepayer in  
21 granting the ETC application.

22 *New Choice for Customers*

23 During the hearing to consider the issue of public interest, ADT provided  
24 evidence that, with ETC designation and associated USF funds, customers will have  
25  
26

1 improved access to ADT's network and more choices in telecommunication services.<sup>31</sup>  
2 ADT distinguishes its service offerings from other competing wireless carriers by noting  
3 it will be providing services available to any customer on reasonable request, and it will  
4 offer Lifeline and Link Up services, and E-911 services.

5 We conclude that granting the ETC application will improve customers'  
6 ability to obtain ADT wireless services. Two consumers supported the ADT application  
7 because of the increased coverage ADT would offer, improving access to emergency  
8 and other critical services as well as quality of life<sup>32</sup> As ADT invests in its network,  
9 competing companies' investment incentives may increase.

10 Granting the application will also provide customers more choices for  
11 meeting their communications needs Low-income customers who otherwise would be  
12 unable to afford wireless service will be able to obtain service using the discounts  
13 provided under the Lifeline and Link Up programs. ADT customers will also have a  
14 choice in local calling areas, including an option for a wider local calling area than  
15 offered by the incumbent MTA

16 The public interest is also served by the mobility of ADT's service. Mobile  
17 service adds public convenience and provides critical access to health and safety  
18 services, not just at the customer's home as the incumbent's system provides, but when  
19 the customers are away from their residences.  
20  
21  
22  
23

24 <sup>31</sup>*Id* at 2.

25 <sup>32</sup>See letters from Sarah Palin and the Mat-Su Community Transit, received  
26 May 20, 2003.

1           *Affordability*

2           While ADT did not offer a rate plan for basic universal service, it did  
3 demonstrate a wide array of offerings. Combined with the ability to make calls into  
4 metropolitan Anchorage without long distance charges, these offerings could lower  
5 costs for consumers. We do not require proof of lower cost because the MTA offerings  
6 differ so extensively from ADT's that their costs cannot be meaningfully compared.

7           *Quality of Service*

8           We do not currently regulate the quality of service by ADT, nor do we have  
9 sufficient evidence to warrant defining quality of service standards to apply to wireless  
10 carriers. However, we will review service quality issues if we receive customer  
11 complaints about ADT's service. This decision does not preclude us from considering  
12 ETC service quality in a regulations docket upon petition or our election.

13           *Service to Unserved Customers*

14           ADT asserted the designation would allow it to accomplish build-out of six  
15 additional cell sites.<sup>33</sup> ADT expects to reach unserved customers in Trapper Creek,  
16 Petersville and Cantwell.<sup>34</sup>

17           The RC claims the designation will not provide benefit, and that ADT  
18 wants the benefits of ETC status without the commensurate obligations to serve  
19 hard-to-reach customers.<sup>35</sup> MTA argues that ADT makes no firm commitment regarding  
20 its six cell sites and that ADT would not achieve economic viability regarding the site  
21 additions even with support. MTA believes that rather than constructing facilities in  
22  
23

24           <sup>33</sup>*Id.* at 9

25           <sup>34</sup>*Id.* at 9, 12

26           <sup>35</sup>*Prefiled Testimony of Jack H. Rhyner*, filed April 14, 2003, at 10.



1 areas like Trapper Creek, Petersville, and Cantwell, ADT will instead use its funding to  
2 benefit the high-density, lower cost areas that ADT already serves.

3 We find nothing in the record to substantiate MTA's claim; rather, ADT has  
4 clearly stated on the record it would seek out new customers. Two letters filed by  
5 consumers suggests that customers in the MTA area may at times be without wireline  
6 service and that these customers may desire ADT's services.<sup>36</sup> We conclude that by  
7 granting this application, we will improve the ability of customers not now served by  
8 wireline to obtain access to wireless service. As an ETC, ADT will be obligated to  
9 provide service to currently unserved consumers upon reasonable request.

#### 10 *Comparison of Benefits to Public Cost*

11 The RC and MTA argued that we should not grant ADT ETC status unless  
12 we can prove that the benefits of the designation would exceed the public costs. We  
13 find no support in the law for application of this standard to our review of ADT's ETC  
14 application. Furthermore, we find that while improvement in public safety and  
15 convenience and other public benefit factors cannot easily be quantified, they provide  
16 substantial benefit to the public.<sup>37</sup> There was no credible evidence in the record of  
17 countervailing public costs.

#### 18 *Considerations of Material Harm*

19 We considered whether there would be any material harm in granting the  
20 ETC application. The record is virtually silent concerning substantive harm specific to

21  
22 <sup>36</sup>See letters from Sharla Toller and Becky and Steve DeBusk, received  
May 20, 2003.

23 <sup>37</sup>The FCC has indicated that concerns about the financial impact of designating  
24 competitors as ETCs on the federal fund are not relevant to designating a particular  
25 carrier as an ETC. *In Re Federal State Joint Bd. on Universal Service; RCC Holdings,*  
26 *Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its*  
*Licensed Service Area in the State of Alabama*, CC Docket No. 96-45, Memorandum  
Opinion and Order, 17 F.C.C.R. 23532, para. 3 (2002).

1 MTA or to customers in the MTA service area. MTA admits that its own federal funding  
2 will likely not be affected by our decision to grant the application.<sup>38</sup> There is no  
3 evidence that MTA will lose a significant number of customers as a result of increased  
4 competition by wireless services. There is no evidence that consumer local rates will  
5 increase or that quality or availability of service will decrease as a result of granting the  
6 application. We did not find persuasive evidence in this proceeding suggesting generic  
7 harm to either the federal universal service fund or to customers generally by granting  
8 the application. We find no evidence to suggest that any material harm will occur.

9 In summary, we find that granting ETC status to ADT is in the public  
10 interest. We previously concluded that ADT adequately demonstrated that it met all  
11 other criteria necessary to allow award of ETC status. We therefore grant ETC status to  
12 ADT.

13 Conditions on ETC Status

14 Various parties have recommended that we should place quality of service  
15 requirements on ADT as a condition of ETC status. We will not develop quality of  
16 service standards for wireless carriers in this proceeding. We lack a record  
17 demonstrating that such standards are needed. We will consider wireless quality of  
18 service standards in the future, provided a need for such standards is proved.

19 When GCI obtained ETC status for the ACS Rural LECs' study areas, we  
20 prohibited GCI from applying for support for a study area until it had filed a certificate,  
21

22  
23 <sup>38</sup>MTA's Reply at 29. MTA qualified its answer by stating that its support would  
24 not decrease, but only under the current rules, and that the FCC and the Federal-State  
25 Joint Board on Universal Service were actively considering proposals to change the  
26 federal universal service program. While that may be the case, we cannot assume that  
federal policies will necessarily change to disadvantage MTA or that our decision to  
grant ADT ETC status will as a result harm MTA in the long term.

1 supported by an affidavit, demonstrating availability of service and advertising thereof<sup>39</sup>

2 We will not place a similar requirement on ADT for the following reasons:

3 a) ADT has applied for service in only one study area, unlike the GCI  
4 request for ETC status in multiple study areas,

5 b) GCI indicated it would phase-in service. In comparison, ADT has  
6 provided a 7 Step plan for providing service throughout the study area;

7 c) When we granted GCI ETC status, companies had not implemented  
8 plans to disaggregate support below the study area level.

9 The RC urges us to levy conditions on ADT to verify that ADT meets its  
10 obligations and to ensure parity between new ETCs and the incumbent local exchange  
11 carrier. We may require conditions within narrow bounds set by the Act and further  
12 identified in the Texas Office of Public Utility decision.<sup>40</sup> The parties argued about the  
13 extent of our authority<sup>41</sup> In a number of recent decisions on ETC designation, state  
14 commissions that granted ETC status attached significant conditions on commercial  
15 mobile radio service carriers<sup>42</sup>

16 ADT argues that the competitive market makes conditions of service  
17 quality and affordability redundant. ADT urges us to annually review the way USF funds  
18 are spent to monitor service quality.<sup>43</sup>

19 Many of the proposed conditions are designed to protect incumbent  
20 carriers from market participation concerns by a competitive ETC, such as cream  
21

22 <sup>39</sup>See Order U-01-11(1), dated August 28, 2001

23 <sup>40</sup>See n 12

24 <sup>41</sup>Tr 159, 211.

25 <sup>42</sup>Tr 211, 215

26 <sup>43</sup>*Rebuttal Testimony of Don Wood on Behalf of Alaska DigiTel, LLC*, filed  
May 5, 2003, at 14, Tr 371-72, 379.

1 skimming The FCC has previously rejected rural incumbent carriers' suggestions to  
2 adopt eligibility criteria beyond those set forth in Section 214(e) to prevent competitive  
3 carriers from attracting only the most profitable customers, providing substandard  
4 service, or subsidizing unsupported services with universal service funds. The FCC  
5 concluded that the statutory requirements limiting ETCs, and requiring them to offer  
6 services throughout the area and to use support only for the intended services, were  
7 sufficient<sup>44</sup> Similarly, we find little evidence that further protections are needed to  
8 protect MTA's place in the market

9 *Annual Certification*

10 Each year we open a proceeding and issue an order requiring information  
11 from the economically regulated ETCs operating in Alaska so that we may make our  
12 annual certification to the FCC concerning use of federal universal service funds under  
13 47 C F R. § 54.314. As an ETC, MTA submits data in these annual proceedings

14 Under federal regulations, an ETC not subject to our jurisdiction that  
15 desires to receive federal universal service support must file an annual certificate with  
16 the federal fund administrator and the FCC stating that all federal high-cost support  
17 received will be used only for the provision, maintenance, and upgrading of facilities and  
18 services for which the support is intended. We do not economically regulate ADT, and  
19 therefore, under federal law, ADT would normally only file its certification with the FCC.  
20 We are not required to certify to the FCC whether ADT will appropriately use federal  
21 universal service funds However, in order to monitor the continued appropriate use of  
22 universal service funding in our competitive rural markets, we require ADT to file the

23  
24 <sup>44</sup>*In Re Federal-State Joint Board on Universal Service; Western Wireless*  
25 *Petition for Designation as an Eligible Telecommunications Carrier in the State of*  
26 *Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 53,  
paras 12-13 (CCB 2000)

1 same information required of MTA through our annual use-of-funds certification  
2 process ADT has agreed to do so

3 *Service Area*

4 Under Section 214(e)(1), a carrier's ETC status is linked to a specific  
5 "service area " In its comments, MTA states that the topographical map of ADT's  
6 proposed service area, as marked by ADT in Exhibit A to its May 14, 2002, filing, does  
7 not correspond to the serving area referenced in the MTA tariffs filed with this  
8 Commission. As a result, MTA believes ADT planned to serve something less than  
9 MTA's service area MTA states that if ADT had no intention of serving MTA's entire  
10 study area, then it must lodge a request to redefine the service area boundary<sup>45</sup>

11 We clarify that under federal law, ADT's ETC service area must be the  
12 same as the MTA study area.<sup>46</sup> Consistent with the federal requirements, ADT  
13 indicates it would serve the MTA study area and our approval of ADT's ETC status is for  
14 this study area Should there be a dispute over the extent of MTA's study area, we will  
15 resolve such disputes when they occur.

16 *State USF*

17 ADT indicated it had no plan to apply for state universal service support  
18 We will not require that ADT file for such support. However, our regulations provide that  
19 ADT, if granted federal ETC status, automatically becomes eligible for state universal  
20 service funds See 3 AAC 53 399(3). We anticipate that ADT will obtain only minimal  
21 support from our state fund, as it will likely only qualify for support for Lifeline services.

22  
23 <sup>45</sup>MTA's Reply at 3, 8.

24 <sup>46</sup>See 47 U.S.C. § 214(e)(5) The service area cannot be changed from the  
25 study area unless and until the FCC and the states, after taking into account  
26 recommendations of a Federal-State Joint Board institute under section 410(c) of the  
Act, a different definition of service area for such company.

1 This order constitutes the final decision in this phase of the proceeding  
2 This decision may be appealed within thirty days of the date of this order in accordance  
3 with AS 22.10 020(d) and the Alaska Rules of Court, Rule of Appellate Procedure  
4 (Ak R App. P ) 602(a)(2) In addition to the appellate rights afforded by  
5 AS 22 10.020(d), a party has the right to file a petition for reconsideration as permitted  
6 by 3 AAC 48 105 If such a petition is filed, the time period for filing an appeal is then  
7 calculated under Ak R App. P. 602(a)(2).

8  
9 **ORDER**

10 THE COMMISSION FURTHER ORDERS:

11 1 The application filed by Alaska DigiTel, LLC requesting that it be  
12 designated as a carrier eligible to receive federal universal service support under the  
13 Telecommunications Act of 1996 in the Matanuska Telephone Association, Inc. study  
14 area is granted

15 2 By 4 p.m , September 8, 2003, Alaska DigiTel, LLC shall file  
16 certification, supported by an affidavit, demonstrating that it will advertise its services as  
17 specified in the body of this Order.

18 3 By 4 p.m , September 8, 2003, Alaska DigiTel, LLC shall provide the  
19 information concerning emergency services, Lifeline services, and Link Up services as  
20 specified in the body of this Order.

21 4 Alaska DigiTel, LLC shall maintain on file with this Commission the  
22 Lifeline and Link Up information specified in the body of this Order.

1                   5. To the extent possible, Alaska DigiTel, LLC shall file as if it were a  
2 regulated carrier in response to our requests for information in our annual proceeding  
3 concerning annual certification of use of funds to the Federal Communications  
4 Commission.

5 DATED AND EFFECTIVE at Anchorage, Alaska, this 28th day of August, 2003

6  
7                   BY DIRECTION OF THE COMMISSION  
8                   (Commissioners Dave Harbour  
9                   and Kate Giard, not participating.)  
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11 ( S E A L )  
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